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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FEB 9 1993

Rm 222

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FEB 12 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN REPLY REFER TO:

1800D5

Caren Lacy.
1885 Ponder Heights Drive
Colorado Springs, CO 80906

DOCKET FILE COPY ORIGINAL

Dear Ms. Lacy:

This is in response to the petition for rule making which you submitted seeking a change in the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, at Silverton, Colorado. In this regard, you request the deletion of FM Channel 257A at Silverton, or alternatively, the substitution of an equivalent Class A channel as a replacement for Channel 257A, to facilitate your future plans to upgrade from Channel 259C2 at Durango, Colorado, to Channel 259C1. You have been issued a construction permit (File No. BPH-910227MG) for Channel 259C2.

In support of the proposal you advise that the site specified in the construction permit for Channel 259C2 at Durango, at coordinates 37-19-59 and 107-49-13, meets the minimum spacing requirements of Section 73.207(b) of the Commission's Rules to Channel 257A at Silverton, at coordinates 37-48-18 and 107-38-03. The actual distance between the coordinates is 54.9 kilometers (34.3 miles) whereas 55 kilometers (34.4 miles) is required. However, you state that the Silverton allotment precludes your ability to upgrade from Channel 259C2 to Channel 259C1 at Durango. Using the site specified in your construction permit, Channel 259C1 would be 21 kilometers (13 miles) short-spaced to Channel 257A at Silverton. Additionally, although not a factor in our determination herein, we also note that at your presently authorized site at Durango, Channel 259C1 would be 2.2 kilometers (1.3 miles) short-spaced to the licensed facilities of Station KXTC(FM), Channel 260C, Thoreau, New Mexico, at coordinates 35-36-13 and 108-40-45.

Section 1.420(g) of the Commission's Rules allows licensees and permittees to seek modifications of their authorizations to specify another class of channel in the same community in the course of a rule making proceeding to amend Section 73.202(b) of the Commission's Rules. Therefore, since the petition to change the present allotment of Channel 257A at Silverton has not been requested in conjunction with a proposal to amend Section 73.202(b) of the Commission's Rules with respect to Channel 259C2 at Durango, we are unable to accept your proposal for consideration as filed.

In order for the Commission to consider your proposal, you must file a petition to institute a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, at both Silverton and Durango, Colorado. The petition for rule making must include a technical showing to demonstrate that the other Class A channels suggested in your proposal as equivalent substitutions at Silverton are available, in the event expressions of interest in retaining a Class A channel at that community are received, and that Channel 259C1 could be allotted to Durango consistent with the minimum distance

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separation requirements of Section 73.207(b) (1) of the Commission's Rules.

Additionally, Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. If represented by counsel, it must be signed by at least one counsel of record in his individual name. In the absence of such filing, a pleading may be returned as unacceptable. Section 1.401(b) of the Rules concerning rule making proceedings places petitioners on notice that their proposals must conform with the requirements of Section 1.52 regarding subscription and verification.

In accordance with the requirements of Section 1.420 of the Commission's Rules, a signed original and four copies of each petition for rule making must be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

In view of the above, your proposal is unacceptable for filing. If you wish to pursue your proposal, you may resubmit it in accordance with the requirements of Sections 1.52, 1.420 and 73.207(b) (1) of the Commission's Rules.

Sincerely yours,

Michael C. Ruger
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

bcc: Dockets Branch via Secty's Office (Rm. 222) (2 cys.), petition filed
1/25/93.

NVJoyner:AB:PRD:MMB

ltrs/ lacy